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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,737	03/29/2004	Randolph S. Reddick	032759.00011	1677

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McNair Law Firm, P.A.
P.O. Box 10827
Greenville, SC 29603-0827

EXAMINER

AUSTIN, AARON

ART UNIT	PAPER NUMBER
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1775

DATE MAILED: 05/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/811,737	REDDICK, RANDOLPH S.	
	Examiner	Art Unit	
	Aaron S. Austin	1775	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-38 and 40-44 is/are allowed.
- 6) ☒ Claim(s) 39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 39 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the specification of "adjacent vertical axes adjacent of said grid" does not specify the structure with which the adjacent axes are associated. For purposes of this office action this claim will be interpreted to correspond to paragraph [0023] of the specification in which cells forming grids are axially spaced by about 4".

Response to Arguments

Applicant's arguments, see pages 9-10 of the Reply, filed February 16, 2006, with respect to claims 1, 3, 7, 19, 24, 26, and 41 have been fully considered and are persuasive. The objection of claims 1, 7, 26, and 41 has been withdrawn. The rejection of claims 3, 19, and 24 has been withdrawn.

Applicant's arguments filed February 16, 2006 with respect to the objection to the abstract for use of legal phraseology and with respect to claim 39 have been fully considered but they are not persuasive.

Regarding the abstract, Applicant has argued the term “comprises” has a dictionary meaning that does not include definition as a legal term. It is recognized that the term is used in the abstract within its dictionary meaning, however it is a legal term as applied to patents. To quote the MPEP as cited above, “The form and legal phraseology often used in patent claims, such as ‘means’ and ‘said’, should be avoided.” Both “means” and “said” have clear dictionary definitions that do not include definition as legal terms. However, the legal implication of “means” and “said” as used in patent claims is clearly defined, as is the legal implication of the term “comprising”. Particularly, the transitional phrases “comprising”, “consisting essentially of” and “consisting of” define the scope of a claim with respect to what unrecited additional components or steps, if any, are excluded from the scope of the claim. See MPEP § 2111.03. “Comprises” is another form of “comprising”, carrying with it the same legal implication. However, as the MPEP states such language “should be avoided” and is not entirely restrictive, the objection to the term “comprises” is withdrawn.

Regarding claim 39, page 10 of Applicant’s Reply recites claim 39 as being amended, however the Listing of Claims does not indicate amendment of this claim. Therefore the rejection of claim 39 is maintained.

Applicant’s arguments with respect to claims 45, 47, 48, 51, and 53 have been considered but are moot in view of the cancellation of claims 45-53. However, in light of

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Applicant's intention to file a continuation, the following response is made to the arguments presented.

Regarding claims 47 and 51-53, Applicant has further defined the claim and requested a suggestion as to language that might overcome the present rejection of the claims under 35 U.S.C. 112, second paragraph. It is suggested that the phrase "within a range of about X mesh sizes", with X being the claimed mesh size, will coincide with the definition applied by Applicant and overcome the present rejection.

Regarding claim 51, Applicant's argument as to the presence of the objected-to phrase is persuasive and the objection is withdrawn.

Allowable Subject Matter

Claims 1-38 and 40-44 are allowed.

As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

The following is a statement of reasons for the indication of allowable subject matter:

with respect to claims 1-25, the prior art uncovered does not show an artificial turf system comprising a support layer, a base layer including a grid of cells formed of upstanding tubular members having upper portions of a first diameter adapted to support an outer layer and lower portions having a second and larger diameter adapted

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to engage the support layer, particularly where the lower portions provide each cell with vertical flexibility; and

with respect to claims 26-44, the prior art uncovered does not show a base layer for use with an artificial turf system including a support layer, an outer layer, and a base layer wherein the base layer includes a flexible mat comprising a plurality of inter-connected grids, each grid comprising a plurality of inter-connected vertically disposed multi-diameter cells arranged in a polygonal configuration, particularly wherein each cell is formed of semi-flexible plastic and includes an upper portion with an upper edge for supporting the outer layer and a lower portion for engaging the support layer wherein the cells are constructed to provide relative flexibility between the upper and lower portions.

Claim 39 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office Action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron S. Austin whose telephone number is (571) 272-8935. The examiner can normally be reached on Monday-Friday: 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer McNeil can be reached on (571) 272-1540. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ASA


JENNIFER C. MCNEIL
SUPERVISORY PATENT EXAMINER
4/28/06